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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIUS JONES,

Plaintiff,

No. CIV S-09-2974 GEB GGH P

vs.

A. DAZO, et al.,

Defendant.

ORDER

\_\_\_\_\_ /

It has come to this court's attention that plaintiff is deceased. Although no notice of suggestion of death upon the record under Fed. R. Civ. P. 25(a)(1) has been submitted, the court need not pursue such in light of its inquiry to CDCR, verifying that plaintiff died on or about April 25, 2010. Pursuant to Rule 25(a)(1), a motion for substitution of a proper party must be made no later than ninety days after death is suggested upon the record. In the absence of any such motion, upon the expiration of the ninety-day period, the court will recommend dismissal of this action. See U.S. v. \$84,740.000 Currency, 981 F.2d 1110, 1113 (9th Cir. 1992); United States v. Oberlin, 718 F.2d 894, 896 (9th Cir. 1983) (actions upon penal statues do not survive wrongdoer's death).

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed on August 5, 2010 are hereby vacated.

2. A motion for substitution of a proper party must be made within ninety days.

DATED: September 15, 2010

/s/ Gregory G. Hollows

UNITED STATES DISTRICT JUDGE

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